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REMARKS

Claims 1-13 are pending in the present Application. Claims 3, 8, and 12 have been cancelled, Claims 1, 5, 7, and 9 have been amended, and Claims 14 - 16 have been added, leaving Claims 1, 2, 4 - 7, 9 - 11, and 13 - 16 for consideration upon entry of the present Amendment. Support for the amendments and the new claims can at least be found in Claims 3, 8, and 12 as originally filed. No new matter has been introduced by these amendments. Reconsideration and allowance of the claims is respectfully requested in view of the above amendments and the following remarks.

Drawings

Applicants note that the drawings have not been rejected and/or addressed in this Office Action. However, the present application published as U.S. Patent Publication No. 2004/0105773 A1 on June 3, 2004 with the incorrect figures. Instead of Applicant's Figures 1 - 4 of a schematic of an electrochemical cell illustrating a typical fuel cell reaction (Figure 1), a cross-sectional view of a porous plate, (Figure 2), a cross-sectional view of an electrochemical cell (Figure 3), and a graph (Figure 4), the published application had figures of a bicycle, the handle bars, a control diagram, and electrical connections. Applicants have reviewed drawings in the image file wrapper on PAIR dated August 25, 2003 and the correct figures are shown. Please confirm that the proper figures are part of the present application and delete the bicycle figures if they are in the file.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 1, 3, 4, 9, 10, 12, and 13 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 5,640,669 to Harada et al. Applicants respectfully traverse this rejection.

Harada et al. teach making a porous body comprising Cu, a Cu alloy, or a precursor thereof that is formed on a foam and then sintered to form a porous skeleton of Cu or a Cu alloy that can be plated with Ni or Ni alloy.

To anticipate a claim, a reference must disclose each and every element of the claim. *Lewmar Marine v. Varient Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987).

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Harada et al. at least fail to teach or suggest a method for making a porous electrode comprising sintering an electrically conductive material, wherein the electrically conductive material is cobalt, zirconium, hafnium, niobium, tungsten, carbon, or mixtures or alloys thereof. Since Harada et al. at least fail to teach or suggest the electrically conductive material, Harada et al., fail to anticipate the present claims. Reconsideration and withdrawal of this rejection are respectfully requested.

Claims 1, 3, 4, 9, 10, 12, and 13 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 3,802,878, to Lindstrom. Applicants respectfully traverse this rejection.

Lindstrom teaches porous electrodes comprising nickel and silver.

Lindstrom at least fails to teach or suggest a method for making a porous electrode comprising sintering an electrically conductive material, wherein the electrically conductive material is cobalt, zirconium, hafnium, niobium, tungsten, carbon, or mixtures or alloys thereof. Since Lindstrom at least fails to teach or suggest the electrically conductive material, Lindstrom fails to anticipate the present claims. Reconsideration and withdrawal of this rejection are respectfully requested.

Claims 1, 2, 4, 9 – 11, and 13 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 5,937,264, to Wallin. Applicants respectfully traverse this rejection.

The present application is a divisional application of U.S. Patent Application Serial No. 09/714,933 and also claims priority to U.S. Provisional Application Serial No. 60/166,135, filed November 18, 1999. Since Wallin issued as a patent on August 10, 1999, it was not patented or a printed publication for more than one year prior to the date of application for the present patent application. Hence, Wallin is not a proper 35 U.S.C. § 102(b) reference. Reconsideration and withdrawal of this rejection are respectfully requested.

Claims 1, 3, and 4 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 4,225,346 to Helliker et al. Applicants respectfully traverse this rejection.

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Helliker et al teach forming nickel powder into a gel and sintering it to attain a porosity above 90% (Col. 2, lines 58 – 65)

To anticipate a claim, a reference must disclose each and every element of the claim. *Lewmar Marine v. Variant Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987).

Helliker et al at least fail to teach or suggest a method for making a porous electrode comprising sintering an electrically conductive material, wherein the electrically conductive material is cobalt, zirconium, hafnium, niobium, tungsten, carbon, or mixtures or alloys thereof. Since Helliker et al at least fail to teach or suggest the electrically conductive material, Helliker et al, fail to anticipate the present claims. Reconsideration and withdrawal of this rejection are respectfully requested.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1, 3 – 6, 8 – 10, 12, and 13 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 4,447,302 to Brennecke et al. in view of U.S. Patent No.4,206,271 to Norling et al. Applicants respectfully traverse this rejection.

Brennecke et al. teaches processes for making a Ni-Ti electrode where the Ti may be added before or after sintering. (Col. 1, lines 44 – 68).

Norling et al. disclose a method of manufacturing highly porous electrode bodies. They teach that there are problems with highly porous electrodes: “a limiting factor is that generally the mechanical strength of the electrode body decreases with increasing pore volumes.” (Col. 1, lines 30 – 38)

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness, i.e., that all elements of the invention are disclosed in the prior art. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970).

Again, as with the other references of record, neither Brennecke et al. nor Norling et al. teach or suggest a method for making a porous electrode comprising sintering an electrically conductive material, wherein the electrically conductive material is cobalt, zirconium, hafnium, niobium, tungsten, carbon, or mixtures or alloys thereof. Therefore, these references, alone, and

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in combination, do not render the present claims obvious. Reconsideration and withdrawal of this rejection are respectfully requested.

Allowable Claim

Claim 7 was objected to as being dependent upon a rejected base claim and was acknowledged as allowable if it were rewritten in independent form. Claim 7 has been rewritten in independent form including all of the limitations of the base claim and all intervening claims.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and withdrawal of the rejections and objection, and allowance of the case are requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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